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PTO/SB/61 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First Named Inventor: Gary W. Lampkins

Art Unit: 3728

Application Number: 10146164

Examiner: Anthony Stashick

Filed: 11/14/2002

Title: Stay Tie II

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MAY 09 2006

OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of
Advisory Action Reply (identify the type of reply):

☐ has been filed previously on _____

☒ is enclosed herewith.

B The issue fee of \$ _____

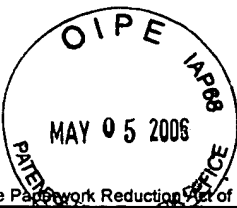
☐ has been filed previously on _____

☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

10/046/164

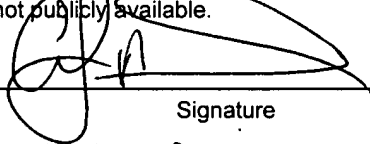
3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature
Gary W. Lampkins

Typed or printed name

5/6/06

Date

Registration Number, if applicable

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Address

Telephone Number

Enclosure ☐ Fee Payment

- ☒ Reply *Advisory Action*
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐ _____


CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. *Hand Delivered*
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

5/6/06

Date



Signature
Gary W. Lampkins

Typed or printed name of person signing certificate



10/046,194

Listing of Claims:

Claims 1 and 2 (canceled)

Claims 3 through 6 (New)

appl. No: 10/046,164



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I claim:

1. (canceled) A combination shoe and shoelace retaining device comprising of flexible wrapping members to hold the lace once the shoe is tied in place and retard slipping, with an additional part being a flexible loop extension designed to be inserted through a shoelace hole, with the entire device passing through the loop on the other side of the hole to semi attach the device to the upper of a shoe.

2. (canceled) A combination shoe and shoelace retaining device as described in claim one, wherein each flexible wrapping member has a slot to allow self insertion and interlocking of the member around the shoelace once it is tied, with an additional part being a flexible extension, attaching and incorporating the device as a part of the shoe itself.

Claim 3. (New) A combination shoe and shoelace retaining device comprising of two substantially flexible wrapping interlocking retaining members, joined together by a flexible arm, with a flexible loop extension attached thereto, which allows the device to be attached to a shoe by the flexible loop extension being inserted through a shoelace hole and inserted through said flexible loop to form a noose around the upper of the shoelace hole and surrounding shoe material, thereby allowing the device to be semi attached to said shoe.

Claim 4. (New) A combination shoe and shoelace retaining device as described in claim 1 wherein the device is made a permanent part of the shoe.

Claim 5. (New) A shoelace retaining device comprising of two substantially flexible wrapping interlocking retaining members joined together by a flexible arm.

Claim 6. (New) A shoelace retaining device comprising of a substantially flexible wrapping interlocking retaining member.

RESPONSE TO EXAMINER'S ADVISORY ACTION

1. Examiner rejects applicant's claims, as being anticipated by Lavielle 4,514,882 and specifically states in his office action August 15, 2003 that

" Claim 1 is rejected under 35 U.S.C 102(b) as being anticipated by Lavielle 4,514,882. Lavielle "882 discloses all the limitations of the claim including the following: flexible wrapping retaining members as part of a flexible extension 1,2; the members being made of plastics (see col. 2, lines 20-23); the device being semi attached to the upper of a shoe (shoe lace)." The examiner cites the following in his assessment of applicants subject matter as being anticipated by said prior art which specifically discloses that the device comprises of" two rectangular members 1 and 2, of substantially the same dimensions made of a relatively rigid material such as injection molded plastic material, for example the two members 1 and 2 are linked by a flexible linking member 3 integral with members 1 and 2, being of reduced thickness and width, for example." It is clear that the rigidity of the two rectangular members possibly being made of a plastic is at the essence of the purpose and scope of Lavielle's art which is to retain shoelaces. However the examiner in rejecting the applicants subject matter as being anticipated by Lavielle

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erroneously supports a claim that the evolution of the rigidity of said prior art is flexibility, which is a contradiction in purpose of rigid material, composition, method and scope and use of rigid retaining members. Moreover, the patentability of applicant's disclosure is the effective use of flexible wrapping retaining members on each side of a knot to maintain the integrity of said knot and bow, while by virtue of design, incorporates the ability of adjustment to the thickness or lack thereof of the shoelace material, which is lacking in Laveille. Moreover, the examiner erred in his findings that the applicant's subject matter discloses the device being semi attached to the upper of a shoe by way or "through shoelaces". As stated in the Description of the Preferred Embodiments of the application, the device is semi attached to the upper of the shoe by inserting the oval extension 13 through a shoelace hole with the device then being inserted through oval extension 13 to form a noose around the surrounding shoe material, and not as the examiner stated as being attached to the shoelace itself. However not practical, attaching a retaining device to the shoelaces would have been obvious to a person having ordinary skill in the art to which said subject matter pertains.

2. Claim 1 was also rejected by examiner under 35 U.S.C. 102(b) as being

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anticipated by Anderson 4,949,437. Anderson discloses a collection of members made up of rigid materials much the same as Lavielle with a different design, which by limitation of its design and functions, can not logically incorporate flexibility as the next step in its composition evolution, nor would flexibility in the rigid tab member 12 of Anderson's art be obvious or anticipated since the rigid aspect of said member serves a specific purpose to the effectiveness of the art. Obvious would be a material and design that injects more rigidity for less slippage of the shoestring material. Consequently, the wrapping retaining member with flexibility at the core of the design of the applicant's subject matter, discloses a design use of compression of the shoestring material on both sides of the knot to maintain the integrity of the bow by allowing through its flexible properties, the wrapping retaining member to adjust to any thickness or lack thereof of shoelace material, which will disallow slippage, as opposed to the suppression art of Lavielle and Anderson which displays the use of rigid members to claim obtainment of the same end without the ability of adjustment. Further, the examiner errs in deducting again that the applicants subject matter discloses attachment to the shoelaces as oppose to the unique design of utilizing the shoelace hole of the shoe as its method of attachment. The applicant

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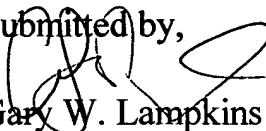
contends that the shoelace is not a part of the shoe but a separate aid of use.

3. Claim 1 was also rejected by examiner under U.S.C. 102(b) as being anticipated by Blum 4,553,293. Blum discloses a device whose design is interactive by insertion of the shoelace through eyelet's 22 and 24 whereby the shoelace is then tied and bowed in the traditional manner, with the top portion folding down over the formed knot to secure said bow, which in theory will maintain the integrity of the knot. Blum's art by virtue of its limitations of design, can not account for the absence of adjustment, which gives way to new art. Further the examiner again incorrectly assesses the applicants subject matter to be attached to the shoelaces as opposed to being attached by way of the oval extension member 13 of the device being inserted through the shoelace hole of the shoe as specified in said applicant's Description of the Preferred Embodiments.

4. Claim 2 was also rejected by the examiner as being unpatentable over any one of the references applied to claim 1 above in view of Pittman 722,891. Pittman as with all of the other references applied to applicant's subject matter, discloses art limitations of a lack of flexibility to allow adjustment within its design. The applicant's subject matter is patentable over all references applied, including Pittman

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because of the flexible adjusting composition and design that allows for changing circumstances of the shoelaces. Further in all of the references cited by examiner the obvious evolution of cited art would be the strengthening of said devices through the advent of stronger, more rigid materials in the composition of its active retaining members. Flexibility of retaining members, the oval extension 13 and function and design coupled with semi and or permanent attachment to a shoe as disclosed in the applicant's subject matter, clearly discloses new art which is patentable over all references cited by the examiner in this matter.

Submitted by,

Gary W. Lampkins



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REMARKS TO EXAMINER'S FINDINGS

1. New claims 3, 4, 5, and 6 of this application is patentable over prior art namely Lavielle, Blum and Anderson in light of the fact that said prior art does not disclose two extremely flexible retaining members with an ability to adjust to the thickness or the lack thereof of the shoestring material which will ultimately maintain the integrity of the knot.

SUBMITTED BY,

Gary W. Lampkins